

ESTTA Tracking number: **ESTTA702390**

Filing date: **10/15/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	General Electric Company
Granted to Date of previous extension	10/18/2015
Address	1 River Road Schenectady, NY 12345 UNITED STATES
Attorney information	Rodrick J. Enns Enns & Archer LLP 939 Burke Street Winston-Salem, NC 27101 UNITED STATES renns@ennsandarcher.com Phone:336-723-5180

### Applicant Information

Application No	86420232	Publication date	04/21/2015
Opposition Filing Date	10/15/2015	Opposition Period Ends	10/18/2015
Applicant	Eaton Electric Holdings LLC 1000 Eaton Boulevard Cleveland, OH 44122 UNITED STATES		

### Goods/Services Affected by Opposition

Class 011. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Outdoor flood, motion activated, and photo-cell controlled lighting fixtures and accessories, namely, outdoor flood lighting fixtures and mounting plates sold in connection therewith as a unit, motion activated lighting fixtures and mounting plates sold in connection therewith as a unit, photocell controlled lighting fixtures and mounting plates sold in connection therewith as a unit; outdoor LED lighting fixtures utilizing adjustable refractive optics

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3747331	Application Date	01/18/2008
Registration Date	02/09/2010	Foreign Priority Date	NONE

Word Mark	EVOLVE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2009/02/26 First Use In Commerce: 2009/02/26 LED lighting fixtures for indoor and outdoor lighting applications

Attachments	77375301#TMSN.png( bytes ) Notice of Opposition - GE v Eaton.pdf(15156 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rodrick J. Enns/
Name	Rodrick J. Enns
Date	10/15/2015

**In the matter of U.S. Trademark Application Serial No. 86/420,232**  
**Published in the *Official Gazette* on April 21, 2015**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**GENERAL ELECTRIC COMPANY,**

**Opposer,**

**v.**

**EATON ELECTRIC HOLDINGS LLC,**

**Applicant.**

**Opposition No. \_\_\_\_\_**

**NOTICE OF OPPOSITION**

Opposer General Electric Company, a New York corporation with places of business in Schenectady, New York, and Fairfield, Connecticut, believes that it will be damaged by registration to Applicant Eaton Electric Holdings LLC of the standard character mark “R-EVOLVE” shown in U.S. Trademark Application Serial No. 86/420,232, published in the Official Gazette on April 21, 2015, and hereby opposes same.

As grounds for this opposition, Opposer alleges the following:

**FACTS COMMON TO ALL GROUNDS FOR OPPOSITION**

1. Opposer, together with its predecessors-in-interest, successors-in-interest, affiliated entities, and authorized licensees (collectively referred to hereinafter as “GE”), is engaged in the business of manufacturing, distributing, advertising and selling numerous lines of goods and services, including but not limited to lighting fixtures for indoor and outdoor use.

2. GE owns Registration No. 3,747,331, issued February 9, 2010, for the standard character mark EVOLVE in International Class 11, for use on and in connection with “LED lighting fixtures for indoor and outdoor lighting applications,” with claimed dates of first use and first use in commerce in 2009.

3. Registration No. 3,747,331 is valid, subsisting and uncanceled, and has become incontestable pursuant to 15 U.S.C. § 1065 by virtue of long and continuous use by GE.

4. GE has in fact continuously and extensively advertised, distributed and sold LED lighting fixtures for indoor and outdoor lighting applications bearing the EVOLVE mark since at least as early as 2009. As a consequence, the consuming public and the trade have come to recognize, and do recognize, the EVOLVE mark as being used by GE or by a single source, and to associate and identify the goods sold under the EVOLVE mark with GE or with a single source.

5. By the pending application, Applicant seeks to register on an intent-to-use basis the standard character mark R-EVOLVE (“Applicant’s Mark”) on the Principal Register for use in connection with the following services in International Class 11 (collectively, “Applicant’s Goods”): “Outdoor flood, motion activated, and photocell controlled lighting fixtures and accessories, namely, outdoor flood lighting fixtures and mounting plates sold in connection therewith as a unit, motion activated lighting fixtures and mounting plates sold in connection therewith as a unit, photocell controlled lighting fixtures and mounting plates sold in connection therewith as a unit; outdoor LED lighting fixtures utilizing adjustable refractive optics.”

6. Applicant’s Mark, R-EVOLVE, incorporates the entirety of GE’s previously used, registered, and incontestable mark EVOLVE. The only added element is the single letter R set off by a hyphen, which is likely to be perceived by consumers as a style designator, line

extension, or other refinement of GE's well-known EVOLVE mark. Applicant's Mark is therefore confusingly similar in sight, sound and meaning to the previously used, registered, and incontestable EVOLVE mark.

7. Most of Applicant's Goods are identical to, and all are at least closely related to, the LED lighting fixtures for indoor and outdoor lighting applications for which GE's EVOLVE mark has long been registered and on which it has long been used. Moreover, based on the description in the subject application, it is likely that Applicant's Goods will be offered through the same or similar channels of trade and will be offered to the same prospective purchasers as goods bearing GE's previously used, registered, and incontestable EVOLVE mark.

8. Under all the circumstances, Applicant's Mark, when used in connection with Applicant's Goods as identified in the subject application, so resembles GE's previously used, registered, and incontestable EVOLVE mark as to be likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning an affiliation, connection, association or sponsorship with the source of goods and services sold under the GE's EVOLVE mark, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to GE, the public, and the trade.

9. Pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a), GE believes it will be damaged by registration of Applicant's Mark in that members of the purchasing public and/or the trade are likely to be confused or mistaken that Applicant's Goods offered under Applicant's Mark originate from GE, or from the same source as goods sold under GE's previously used, registered, and incontestable EVOLVE mark, or that such goods of Applicant are sponsored by, endorsed by, or affiliated with the source of goods sold under the EVOLVE mark. Such likelihood of confusion will damage the goodwill among purchasers and the trade

that GE's EVOLVE mark symbolizes. Registration of Applicant's Mark will support and assist Applicant in the confusing and misleading use of Applicant's Mark, and, in addition, will give color of exclusive statutory right to Applicant in violation and derogation of prior and superior rights of GE.

WHEREFORE, Opposer prays that registration of Applicant's Mark, as shown in Application Serial No. 86/420,232, not be allowed.

This Notice of Opposition is being filed through the ESTTA system and the fee in the amount of \$300 is being charged to Deposit Account No. 501779. Please recognize the undersigned Rodrick J. Enns as attorney for Opposer in connection with this opposition proceeding, and address all correspondence regarding this proceeding as shown below.

Respectfully submitted,

Dated: October 15, 2015

/ Rodrick J. Enns/

Rodrick J. Enns  
Attorney for Opposer General Electric Company

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date I served the foregoing NOTICE OF OPPOSITION upon Applicant by depositing a copy thereof with the United States Postal Service, first-class postage prepaid, and addressed to Applicant at its correspondence address of record in the U.S.

Trademark Office:

Daniel S. Kalka  
Eaton Corporation  
1000 Eaton Blvd  
Cleveland, Ohio 44122-6058

This the 15<sup>th</sup> day of October, 2015.

/ Rodrick J. Enns /  
Rodrick J. Enns

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